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Cascade Range Radio Corporation

P.O. BOX 695, STAYTON OR 97383

Ph: (503)-769-2886

February 26, 1998

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FCC MAIL ROOM

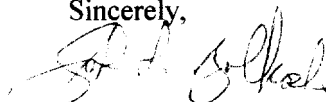
Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, DC 20554

In Re: **Petition for Rule-Making #RM 9208**

Dear Mr. Secretary:

I, John L. Zolkoske, representing Cascade Range Radio Corporation respectfully submits an opinion regarding the above mentioned petition. Please find enclosed an original and three copies of the submitted comments.

Sincerely,



John L. Zolkoske

President

Cascade Range Radio Corporation

(503)-769-2886

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**BEFORE THE
Federal Communications Commission
Washington, D.C. 20554**

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FCC MAIL ROOM

Re: RM-9208

**From: John L. Zolkoske
Cascade Range Radio Corporation
P.O. Box 695
Stayton, OR 97383**

**To: Secretary, FCC
Room 222
1919 M Street N.W.
Washington, D.C. 20554**

Date: February 26, 1998

**OPINION IN FAVOR OF PETITION
FOR RULE-MAKING #9208**

Dear Mr. Secretary:

This correspondence concerns RM-9208 a petition to establish low-power AM and FM service. I wish to go on record supporting the establishment of such service. I have experienced substantial frustration with the current system of licensing broadcast facilities, and believe it to be bias against smaller independent entities wishing to initiate broadcasting service. This has especially become more true in the light of broadcast deregulation and the subsequent consolidation trends. I believe

the current system does not accomplish the mission of the Federal Communications Commission to encourage competition in the marketplace. To solidify my assertion, I will provide various examples of my personal experiences with the current system.

First, I wish to state that I have hoped to operate a broadcast facility since I was a child. This is a life-long pursuit. Just out of high school, I went to work for a local AM operation. I worked for this operation to put myself through college and gain knowledge of the industry. I studied communications and management in college and obtained a bachelor's degree in 1992. In 1992 I returned to the small AM station and worked closely with the owner, who said that one-day I might become a partner. I worked for the station at low wages, doing sales, production, engineering, and traffic. I worked hard to help make the marginal station succeed.

Over the next three years, I saved as much money as I could, hoping to buy into the station. The station owner unfortunately passed away and his son took over the operation. The station remained a marginal commercial success, and we began talking about me purchasing the station. Unfortunately, the terms the owner demanded, plus the previously existing debt of the station made the debt practically unserviceable. I tried to negotiate a more realistic deal, knowing that the income potential of the station would make re-paying the monthly debt nearly impossible. In the end, the owner ended up selling the station to an existing broadcast operator in another community. This operator had the benefit of running a successful station in a larger market and could dump money into the station. The new operator ended up consolidating the studios to an existing facility over 30 miles away, thus lessening the amount of operating cost. This was an option I did not have as an

independent operator. The decision to move our station out of the community was financially sound for the winning bidder for the station, but now our community again has no local broadcast service. It remains very upsetting to me that what I helped worked so hard to build - a resource for our community - is now a satellite operation from a distant community. I believe the false scarcity of broadcast signals created by the existing licensing system (that which licences higher power operations only) leads to this loss of service to the public. I believe this system is in place only to benefit the financial status of existing broadcasters, creating artificially high prices for broadcast licenses.

May I also state that the artificially high prices being paid for broadcast facilities is also leading to out-of-line advertising prices for local merchants. A station with a high debt load must charge high spot rates to service this debt. Thus, it is forced to look to advertisers that can pay high rates - often the regional or national chain stores. Most often, the small independent business owners in a community cannot afford these rates. Thus, a low-power community based station can provide an affordable outlet for information about the products and services of all businesses in a community - including minority and other small business owners.

I left my job with the AM station after it was determined that the studio would be relocated away from our town. Over the next several months, I tried to find a way to establish another broadcast service in the community. There are no available commercial FM frequencies in my area, even though it is not in a large market (though about 60 miles from two larger markets which has depleted available frequencies). I was told by an engineer that I could build another AM station. However,

this seemed unlikely given the 250 watt nighttime requirement. Regardless, I thought I might try it anyway. Unfortunately, no one in the area wanted one or two 150 foot AM radio towers on their land - unless I was prepared to pay a huge lease fee. Also, zoning restrictions and potential protests by neighbors, along with the associated legal fees, makes the siting of such a facility an impossibility for a small-business person.

By early 1996, I (operating under my corporate structure - Cascade Range Radio Corporation) had decided that I could settle for operating an FM translator. I paid an engineer to put together an application and received permission by an originating station to re-broadcast their signal. My plan was to originate the permissible 30 seconds each hour of announcements. I thought this was going to work out, since my application met all interference requirements. Unfortunately, after my application was placed on the cut-off list, a major corporate entity began broadcasting announcements stating that my signal would degrade the reception of their signal in the local area (see file no. BPFT-960624TB). I believed these assertions to be grossly inaccurate, as my signal was 400 kHz separated from theirs and geographic distance and local topography did not make this possible. But, it was their word against mine (they are certainly fortunate to have a 100,000 watt media outlet to get their point across - while I have no such means of counteracting their assertions). They had a team engineers and attorneys on their side to get their point across. The FCC dismissed my application (see attached letter dated February 28, 1997 - Signed By Daniel LaFontaine for Dennis Williams, Assistant Chief, Audio Services Division) because a few people had written letters saying they didn't want their reception of KGON-FM degraded. I believe this example fully demonstrates that the small business person has little chance against the corporate monolith, even

when the most benign application is submitted before the FCC.

I was told by FCC staff member, Don LaFontaine that I could submit a petition for reconsideration, but it wouldn't change their opinion of the situation. It was recommended that I try to apply on another frequency. This is what I did. However, after waiting another six months, I was then contacted that a petition to deny had been filed against my application (see FCC File No. BPHF-970317TE). It turned out that the same company, ECI License Co., operated a lower powered station (KNRK-FM Class C-3) adjacent to the frequency I was seeking. This station is so far distant and low powered, that I can't even receive it in this area. However, ECI had used the same tactics as before and people had written letters stating they listened in our area - and I expected that my application would again be dismissed. I cannot afford to keep paying for engineering and filing fees, when the expected result is to have large corporate entities use the power of their existing broadcast facilities to stop my modest plans. I was also concerned about remarks made by some writers of letters of protest. For some reason, these people seemed to vilify me. One writer said he would kill anyone that took away his KNRK (he said he was kidding, but I take such threats seriously). Keeping this in mind, I decided not to proceed with the application.

Next, I noticed that an existing Portland station had switched frequencies, which opened up an FM channel. I amended my application to go to the new frequency (see FCC File No. 970908TA). My application is still pending. I fully expect protests by large corporate license holders on nearby frequencies. It is probably all to no avail anyway, as there is a petition to amend the table of allotments to add a full-power station on the same frequency as my translator application to Dallas,

OR. I looked at adding the same channel to my community, but it did not meet minimum distance requirements for a class A signal. I have an interest in applying for the frequency in Dallas, but so do a lot of other people. I doubt I have the funding to win the license at auction (as this is what I hear the FCC will start doing with new competing applications). I may try to compete for the Dallas, OR license, but seriously doubt my ability to out-bid larger corporate interests.

Therefore, I see little prospect for people such as myself. I do have funding to build a broadcast facility for the betterment of my community, but not excess funding to throw away on 'blue sky' dreams, or to line the pockets of someone who was lucky enough to get a license years ago. I have the skills to operate a broadcast station, but have been relegated to existing in a job (computer operator) that requires none of the skills I so diligently developed over the years. My intention is not to get rich running a broadcast facility, I simply wish to practice my trade - and hopefully make enough of a living in the process.

I hope the FCC will find a way for people like myself to practice a profession we love. I see low-power broadcasting as a way to accomplish this. Too many of us have been abused by operators who use our skills and then sell out to some entity with more money than good sense. If you do not make some provision for small business people to get into broadcasting, I doubt I will ever work in the industry again. I simply can't afford to go for up to three months at a time without pay, or be put on part-time hours - just enough to come in and load spots into the computer.

I also wish to state that I have tried alternative outlets that do not require an FCC license. I tried part

15 un-licensed broadcasting on AM and FM. This cannot provide sufficient coverage for even the smallest of communities. My experiments have not achieved signal coverage beyond two or three hundred feet. I tried carrier current AM, which could not be heard even four blocks from my transmitter. I contacted the local cable company to try to establish a cable FM station. They were simply not interested, stating that if they let me broadcast on their cable system, they would have to let everyone else do it.

Low-power broadcasters can be a tremendous asset to a community. I would love to be able to broadcast local information and be a resource for the community. In the big-money, bottom-line world of modern broadcasting, this is almost a thing of the past. I understand this necessity, as over-inflated prices for broadcast facilities and high overhead force many stations to 'cut corners' when it comes to public service. This is why low-power broadcasting would be such a benefit. Qualified entities could initiate broadcasting at very low start-up cost. These people can concentrate on providing a quality product, not worrying about how to pay the huge debt. Lower powered entities can also concentrate on a specific area, not on the huge 'generic' territories now. May I reiterate, that the FCC does not exist to protect the financial bottom-line of existing broadcasters, but to serve the American people.

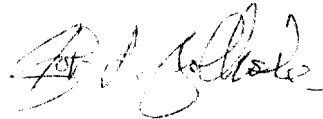
Technically, I think the applicant should be able to choose any available channel based on interference protection (much like translators are now). I suggest power which is high enough to cover a medium-sized community. The applicant should be subject to all current broadcast programming and technical requirements, including EAS compliance and minimum operating

schedules. I also recommend that you provide protection for the low-power station against complaints such as informal objections or petitions to deny by existing broadcast license holders. I believe the existing broadcast licensee should be required to prove that a proposed low-power operation will cause substantial harm to a meaningful portion of a complainants signal - certainly not a few square miles of a distant fringe area. I found with my translator applications that it is easy for an existing broadcaster to get whatever they want just by making a little noise. The small business person has virtually no chance of counteracting the efforts of multi-million or multi-billion dollar corporate entities.

In closing, I simply wish to state that it is time for the FCC to do the right thing. Broadcast deregulation has been devastating to smaller independent operators and those hoping to build or purchase and existing station. It has done nothing but concentrate this resource into even fewer hands. I believe the FCC owes it to the American people to right this wrong. I don't think we can turn back the hands of time when it comes to deregulation, but we can allow a new outlet for the smaller business person. I am only one small entity, but I am sure my predicament has been repeated all over the country. Please stop the continuing destruction of the hopes and dreams of honest people (people like me that don't ever want to become Pirate broadcasters because we believe in following the laws of our nation). I believe you will do the right thing and no-longer let the corporate giants dictate to you what they want.

I will be pleased to discuss this matter with anyone in your branch. I will also be willing to come to Washington, D.C. to testify in this matter if you may require further details.

Sincerely,

A handwritten signature in dark ink, appearing to read "John L. Zolkoske", written in a cursive style.

John L. Zolkoske
President

enclosure

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET NW
WASHINGTON DC 20554

MASS MEDIA BUREAU
AUDIO SERVICES DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
HOME PAGE: WWW.FCC.GOV/MMB/ASD/

PROCESSING ENGINEER: HSING LIU
TELEPHONE: (202) 418-2740
FACSIMILE: (202) 418-1410
MAIL STOP: 1800B3
INTERNET ADDRESS: HLIU@FCC.GOV

FEB 28 1997

Cascade Range Radio Corporation
P. O. Box 695
Stayton, OR 97383

Brian M. Madden, Esq.
Linda D. Feldmann, Esq.
Leventhal, Senter & Lerman
2000 K Street, N.W.
Suite 600
Washington, DC 20006

Re: NEW(FM), Stayton, OR
Cascade Range Radio Corporation
("CRRC")
BPFT-960624TB

Dear Applicant and Counsel:

The staff has under consideration (i) the above-captioned FM translator construction permit application filed by CRRC to serve Stayton, OR; (ii) the informal objection and the supplement to informal objection dated October 28, 1996 and November 6, 1996, filed on behalf of the ECI License Company ("ECI"), licensee of FM station KGON(FM), Portland, OR; and (iii) the response to the informal objection by CRRC dated January 22, 1997. For the reason stated below, we grant the informal objection and dismiss the application.

Violation of 47 CFR § 74.1204(f)

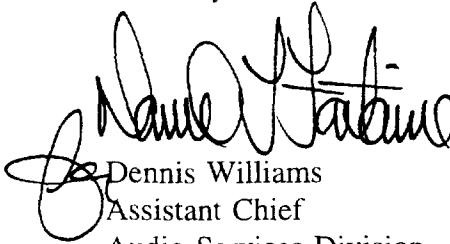
ECI alleges that the proposed translator is in violation of 47 CFR § 74.1204(f) and should be denied. Applications for FM translator stations will not be granted if the predicted 1 mV/m field strength contour of the proposed FM translator will overlap a populated area already receiving a regularly-used, off-the-air signal of any authorized co-channel, first, second or third adjacent channel broadcast station. See 47 CFR § 74.1204(f). There are three distinct

ways for the petitioner to demonstrate prohibited, theoretical interference under § 74.1204.¹ A petitioner must show: (1) that there is prohibited contour overlap; (2) that there is no contour overlap, but (a) the petitioner's signal reaches an area to be served by the translator and (b) the petitioner demonstrates through convincing evidence that it has listeners in the area of alleged interference; or (3) that there is no prohibited contour overlap but the translator's 1 mV/m contour overlays the petitioner's city of license. ECI has met the second showing by demonstrating that KGON's signal reaches listeners within the proposed translator's service area, and that there is a likelihood that the proposed translator will cause interference to KGON's signal in this area. Therefore, the application is in violation of § 74.1204(f) and will be dismissed.

Conclusion

In light of the above, the informal objection filed on behalf of ECI IS HEREBY GRANTED. Application BPFT-960624TB is unacceptable for filing pursuant to 47 CFR § 73.3566(a) and IS HEREBY DISMISSED. These actions are taken pursuant to 47 CFR § 0.283.

Sincerely,



Dennis Williams
Assistant Chief
Audio Services Division
Mass Media Bureau

¹ The burden is on the petitioner to show that the proposed facility fails to comply with the rule. See *Report and Order in the matter of Amendment of Part 74 of the Commission's Rules Concerning FM Translator Station*, 5 FCC Rcd 7212 (1990), *modified*, 6 FCC Rcd 2334 (1991), *recon. denied*, 8 FCC Rcd 5093 (1993).